

December 5, 1934.

Mr. Wm. N. Stevens,
Sec. Colorado Park Irr. Co.,
Randlett, Utah.

Dear Sir:

RE: ~~GENERAL~~ *Uintah Div*

This will acknowledge receipt of your letter of Nov. 24, 1934 asking questions concerning the use of water from White Rocks & Uintah Rivers by the Ouray Irrigation Company and the Colorado Park Irrigation Company. As I understand your letter, you ask three questions:

- (1) Under what rights are the two above named companies diverting water and who is entitled to the use of the water this season of the year?
- (2) Can a man fill his private reservoir from water diverted by virtue of stock in one or more corporations and then dispose of the water as he sees fit?
- (3) Can a prior appropriator divert for storage purposes more water than he is entitled to from a stream? If he does, can it dispose of this water?

I shall endeavor to answer these questions in the order above given as follows:

- (1) The Colorado Park Irrigation Co. diverts water from Uintah River by virtue of Applications No. 1419, 2043. Period of use under these filings is from March 15 to October 15, of each year for irrigation and the entire use for domestic purposes. The Ouray Valley Co. receives its water from the White Rocks River by virtue of Application No. 10111. The period of use for irrigation is from March 1 to December 15 of each year. No domestic water.
- (2) It is a well established rule of law that when a stockholder of a corporation receives water by virtue of his stock, this water is under his direct control and is considered personal property with which he can do as he sees fit. It is, of

course, understood that even a stockholder must make beneficial use of his water.

(3) Our Supreme Court in the case Gunnison Irrigation Co. vs. Gunnison Highland Canal Co. has held that if a prior appropriator diverts for storage more water than it is entitled, it must return surplus to the stream for the subsequent appropriator and if a party stores water in excess in its reservoir

course, understood that even a stockholder must make beneficial use of his water.

(3) Our Supreme Court in the case Gunnison Irrigation Co. Vs. Gunnison Highland Canal Co. has held that if a prior appropriator diverts for storage, more water than it is entitled to, it must return surplus to the stream for the subsequent appropriator and if a party stores water in excess of the amount it is entitled, it can not retain such excess in its reservoir nor can it require those rightfully entitled to it, to purchase the same or to pay storage therefor.

Your problems are relative to distribution. I would therefore suggest that you get in touch with B.O. Colten Jr. Water Commissioner, who I am sure is in a position to help you.

Yours very truly,

T.H. Humpherys.
STATE ENGINEER.